

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**JOHN W. PEROTTI,**

**Plaintiffs,**

**v.**

**DETECTIVE FRITSCHÉ, et al.,**

**Defendants.**

) **CASE NO. 1:06 CV 1878**

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) **JUDGE DONALD C. NUGENT**

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) **MEMORANDUM OPINION AND**

) **ORDER**

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This matter is before the Court upon the Motion to Consolidate filed by Plaintiff John W. Perotti (Docket #21). Plaintiff requests that this Court, in the interests of justice, consolidate Case No. 4:05 CV 2739, *Perotti v. Medlin*, pending with Judge Peter C. Economus in Youngstown, with Case No. 1:06 CV 1878, *Perotti v. Detective Fritsche, et al.*, pending with Judge Donald C. Nugent. (See Docket No. 21 in Case No. 1:06 CV 1878.) Plaintiff states that the cases deal with the same facts and defendants, and seeks to have the cases consolidated so that he may proceed with his case in the United States District Court in Cleveland, rather than in Youngstown.

On June 6, 2008, Defendants Kauchek, Guzik, Fritsche, Favre and Sacco filed their Brief in Opposition to Plaintiff's Motion to Consolidate. Defendants argue that Plaintiff's Motion violates the first-to-file rule. Defendants assert that Plaintiff has filed substantially the

same claims against the Lakewood Defendants in the instant *Lakewood Detectives* case as he filed in the *Medlin* case previously assigned to Judge Economus. Therefore, because the *Medlin* case was filed first, the first-to-file rule precludes the consolidation of the *Medlin* case with the later *Lakewood Detectives* before Judge Nugent.

The Court has reviewed this case and has determined that because the *Medlin* case, pending with Judge Economus, was filed first, it is improper for the two cases to be consolidated before Judge Nugent. Therefore, Plaintiff's Motion to Consolidate (Docket #21) is hereby DENIED.

However, transfer of the *Lakewood Detectives* case, Case No. 1:06 CV 1878, to Judge Economus, is proper. The *Medlin* case, Case No. 4:05 CV 2739, was the first filed and the claims filed against the Lakewood Detectives in Case No. 1:06 CV 1878 are substantially the same as the claims filed in Case No. 4:05 CV 2739. Judge Economus has reviewed the matter and consents to this transfer.

A transfer order will be issued contemporaneously herewith.

IT IS SO ORDERED.

s/Donald C. Nugent  
DONALD C. NUGENT  
United States District Judge

DATED: June 30, 2008